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2014-000858

FOIA Request ID: 2615

FOIA Request submitted by:

Mr. Jason Leopold

Submitted on: February 13, 2014 : 14:54 - America/New_York

Investigative Journalist

(b)(6)

United States

Request:

FEB 18 2014

Dear FOIA Analyst,

This is a request for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, et seq. I am seeking all documents entitled "Media Leaks Questionnaire." In addition, I am seeking all records that refer to "Media Leaks Questionnaire."

If you deny all or part of this request, please cite the specific exemptions you believe justify your refusal to release the information or permit the review and notify us of your appeal procedures available under the law. In excising material, please "black out" rather than "white out" or "cut out." In addition, I draw your attention to President Obama's 21 January 2009 Memorandum for the Heads of Executive Departments and Agencies, directing federal agencies to adopt a presumption in favor of disclosure and stating that government information should not be kept confidential "merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears."

I am a widely published independent investigative reporter and a current contributor to Al Jazeera America (http://america.aljazeera.com/profiles/l/jason-leopold.html). I have also had my journalism published in dozens of domestic and international publications.

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According to 5 U.S.C. 552(a)(4)(A)(ii), codifying the ruling of Nat'l Security Archive v. Dept of Defense, 880 F.2d 1381 (D.C. Cir. 1989), the term "a representative of the news media" means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

I have a clear intent to "publish[ ] or otherwise disseminate[ ] information to the public." Id. at 1386 (quoting the following legislative history: 1) It is critical that the phrase "representative of the news media" be broadly interpreted if the act is to work as expected. . . . In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a "representative of the news media." 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis in original quotation); 2) "A request by a reporter or other person affiliated with a newspaper, magazine, television or radio station, or other entity that is in the business of publishing or otherwise disseminating information to the public qualifies under this provision." 132 Cong. Rec. H9463 (Oct. 8, 1986) (emphasis in original quotation)). Therefore, in accordance with the Freedom of Information Act and relevant case law, I, Jason Leopold, should be considered a representative of the news media and as such I am also requesting a public interest fee waiver.

Please ensure that, in accordance with the DC Circuit's ruling in Chambers v. Dept of the Interior, 568 F.3d 998 (D.C. Cir. 2009), all records potentially responsive to this FOIA request are immediately preserved from destruction until the final resolution of this FOIA action. Destruction of potentially responsive records after the receipt of a FOIA request is considered "contumacious conduct" by the DC Circuit. See id. at 1004.

Your agency is required by law to respond to this request within 20 working days. Failure to timely comply may result in the filing of a civil action against your agency in a United States District Court.

Please provide any records produced in response to this request in electronic (soft-copy) form. Your cooperation in this matter would be appreciated. If you wish to discuss this request, please do not hesitate to contact me.

Kind regards,
Jason Leopold

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Fee Waiver:

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